

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 21-41164

KENYATTA L. PAYTON,

Chapter 7

Debtor.

Judge Thomas J. Tucker

ORDER DISMISSING CASE

On February 11, 2021, the Debtor filed a voluntary petition for relief under Chapter 7, commencing this case. But the Debtor is not eligible to be a debtor in this case, under 11 U.S.C. § 109(g)(2), which provides:

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

...

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

11 U.S.C. § 109(g)(2).

The Debtor was a debtor in a case pending within 180 days before filing this case: Case No. 19-44126, a Chapter 13 case which the Debtor voluntarily dismissed on February 4, 2021. In that case, on July 10, 2019, a creditor, Extra Credit Union, filed a motion for relief from the automatic stay, and on July 26, 2019, a stipulated order was entered that conditioned the continuation of the automatic stay. (Docket ## 25, 32 in Case No. 19-44126, the “Stay-Relief Motion”). Later, on October 31, 2019, the Court entered an order lifting the automatic stay as to Creditor Extra Credit Union (Docket # 36). On February 4, 2021, the Debtor filed a motion to

voluntarily dismiss that case, and the same day, the Court entered an order of dismissal. (Docket ## 53, 54 in Case No. 19-44126.)

The Court reiterates what it has held about § 109(g)(2) in prior cases, including the case of *In re Turner*, 583 B.R. 910, 911 (Bankr. E.D. Mich. 2018):

The Court agrees with the cases holding that (1) dismissal under § 109(g)(2) is mandatory when that statute applies; dismissal is not discretionary; and (2) it is irrelevant under § 109(g)(2) whether there is some causal link or nexus between the filing of a stay relief motion on the one hand, and the debtor's later voluntary dismissal of the case on the other hand. Section 109(g)(2) applies, and requires dismissal, in every situation in which, in a prior case pending within 180 days before the filing of the present case, a creditor filed a motion for relief from stay and the debtor later voluntarily dismissed the case, regardless of the debtor's good faith or whether there was any particular connection between the two events. *See Andersson v. Security Federal Savings and Loan of Cleveland (In re Andersson)*, 209 B.R. [76-78 (B.A.P. 6th Cir.] 1997), and cases cited therein. The undersigned judge has so ruled in previous bench opinions, and adheres to that ruling now. *See, e.g., In re Sigh*, Case No. 09-62738, November 19, 2009 bench opinion at 5-6 (a copy of the transcript of that bench opinion, . . . is filed in the *Sigh* case at Docket # 42 . . .).

See also In re Steele, 319 B.R. 518, 520 (Bankr. E.D. Mich. 2005) (McIvor, J.).

Id. (citation omitted); *see also In re Stachurski*, 613 B.R. 251, 252 (Bankr. E.D. Mich. 2020) (same).

Based on the facts stated above, the Debtor is not eligible to be a debtor in any bankruptcy case filed within 180 days after February 4, 2021, and therefore is not eligible to file any bankruptcy case until on or after Tuesday, August 3, 2021. As a result, this case (filed February 11, 2021) must be dismissed.

Accordingly,

IT IS ORDERED that this bankruptcy case is dismissed.

Signed on February 16, 2021



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge